

4319

U.S. DISTRICT COURT
DISTRICT OF NH

2019 MAY -9 AM 10: 38

THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

FILED

Josephine Amatucci

Plaintiff

v

Criminal Case 464-2018-1490

Town of Wolfeboro , Police Chief Dean Rondeau

Sargeant William Wright, Belnap Sheriff's Dept.

Defendants

jury trial requested

JURISDICTION

1. This new cause of action for damages, is brought pursuant to 42 U.S.C. 1983. Jurisdiction is founded upon 28 U.S.C 1331 (1)(3)(4), and the aforementioned statutory provision. Plaintiff further invokes the supplemental jurisdiction of the court under 28 U.S.C. 1367 (a) to hear and adjudicate state law claims. Plaintiff claims a trial by jury.

PARTIES

2. Plaintiff Josephine Amatucci, P.O. Box 272, Wolfeboro Falls, N.H. 03896 is a citizen of the United States and a resident of Wolfeboro, New Hampshire.
3. Town of Woleboro, 84 South Main Street, P.O. Box 629 Wolfeboro, N.H.03894. sued In an Official Capacity;
4. Police Chief Dean Rondeau, 251 S. Main Street, Wolfeboro, NH 03894, sued individually;

5. Belnap Sheriff's office; Officially ;
6. Sargeant William Wright sued individually;

COMPLAINT INTRODUCTION

7. A Complaint was filed in the Carroll County District Court on August 6, 2018 by Sargeant William Wright , of the Belnap Sheriff's Departmentwithout probable cause..... by falsely accusing the Plaintiff of a Misdemeanor B of a Simple Assault, under RSA 631:2-A, 1 (B), which requires an injury. The Complaint and charge was initiated by police chief Dean Rondeau and directly involved the Wolfeboro Prosecutor Timothy Morgan, who both initiated, handled and supervised the entire investigation done by the Belnap sheriff's department. Where the Wolfeboro police told the Belnap Sheriff's department to do the investigation and the Wolfeboro prosecutor would do the prosecution. Concerning an incident that allegedly occurred at the Wolfeboro Solid Waste Facility, the "DUMP", in August of 2018. Where it was claimed by the Wolfeboro Police, notably Rondeau, that an employee of the "Dump" named Robert Maloney, was allegedly assaulted by the Plaintiff.

8. A decision making by the policymaking officials of the Town of Wolfeboro, namely, Police Chief Dean Rondeau and Wolfeboro prosecutor Timothy Morgan who together were the direct cause for her unlawful seizure and violation of her Civil Rights, when they accused her along with the Belnap Sargeant William Wright of assaulting Robert Maloney, and charged her for a Simple Assault, under RSA 631:2 A, 1 (B). Which required an injury to the victim.

9. However, the defendants all had access to the evidence in the files, that Robert Maloney statedTHERE WAS NO INJURY, which was required to charge the Plaintiff of Simple Assault under this statute. That therefore the unlawful seizure and charge by the policymaking officials of the town of Wolfeboro was a Monell claim under

1983.

10. In a 'continuing conduct' this is the second time that Police Chief Dean Rondeau accused the Plaintiff INTENTIONALLY and in malice of a crime he knew she never committed.

11. Rondeau had access to all evidence provided by the investigation of the Belnap sheriff's Department, which revealed beyond a reasonable doubt that the Plaintiff was innocent of the charge of a Simple Assault under RSA 631:2-A, 1 (B), which required an injury of the victim. Yet even with this evidence of her innocence, the defendants continued to pursue their unlawful charge against her, waiting for the trial. However, before the trial the Plaintiff filed a Motion to Dismiss, and the charges were dropped. There wasNO PROBABLE CAUSE.....ever to charge the Plaintiff with the evidence thatTHERE WAS NO INJURY INVOLVED. Aside from the fact that she never touched Maloney, as evidence will show Maloney acted in retaliation for the Plaintiff accusing a fellow employee of being rude to her.

12. The criminal proceeding under this Statute was discharged by the Belnap Sheriff's department, when she filed a Motion to Dismiss, which proved beyond a reasonable doubt that she was innocent of this charge. That there wasNO PROBABLE CAUSE.....to charge her for this crime. Under the law. That this was an unreasonable seizure initiated by the Wolfeboro Police Department policymaking officials, namely Rondeau and Morgan.

MONELL CLAIM

NO PROBABLE CAUSE

IMPROPER PURPOSE

14. Monell v. Dep. of Social Services 436 U.s. 658, 694 (1918), That as policymaking officials, defendants Rondeau, Wright and prosecutor Morgan, in requirement of a Monell claim under 1983, states that if the decision to file a Criminal Complaint..... without

Probable Cause..... a Federal Constitutional violation is a direct cause of the policymakers decision, who played an active role with an improper purpose, who acted in bad faith, where it is held that a single decision by an official with policymaking authority (in this case prosecutor Estes, and Sargeant Wright) which even a single decision constitutes liability for the Sheriff's Department. And for the Town of Wolfeboro regarding the decision of the policymaker police chief Dean Rondeau. constitutes liability for the municipality. See *Pembauer v. City of Cincinnati*, 475 U.S. 469, 481, 106 S.Ct. 1292, 89 L. ed 452 (1986) ("where action is directed by those who establish government policy, the municipality is equally responsible whether that action is taken ONLY ONCE or to be taken repeatedly." See *Rodriguez v. Municipality of San Juan* 659 F.3d 168, 181 (1st Cir. 2011) . "One way of establishing a policy or custom is by showing that 'a person with final policy making authority ' caused the constitutional injury." (quoting *Welch v. Ciampa*, 542 F.3d 927, 941-42 (1st Cir. 2008), Liability may be imposed on a municipality for a SINGLE DECISION by a final policy maker. *Rodriguez-Garcia v. Miranda-Marin*, 610 F.3d 756, 770 (1st Cir. 2010). *Rosaura Bldg. Corp. v. Municipality of Mayaguez* 778 F.3d 55 (1st Cir. 2015).

Police Chief Dean Rondeau's direct involvement

15. That Police Chief Dean Rondeau and prosecutor Timothy Morgan assisted, managed, and pursued the case along with defendant Sargeant Wright, all policymaking officials, Evidence will show that The Sheriff wanted to issue an Arrest Warrant on November 16, 2018, but the Wolfeboro Prosecutor Timothy Morgan who was conspiring with Rondeau to have me charged with a crime of Simple Assault, and who was overseeing the Belnap prosecutor in all phases of the prosecution by the assigned Belnap Sheriff's Department, decided against an Arrest Warrant to be issued, and instead a Complaint was filed on November 16, 2018, accusing the Plaintiff of the crime of Simple Assault under RSA 631:2-A, 1(B) which states, "Recklessly causes bodily injury to another". However, where the

alleged victim Robert Maloney had told Sheriff Wright that there was NO INJURY , so the Complaint was void on its face, and was dismissed and was Amended, without her knowledge, as she was never sent a copy of the Amended Complaint. The Amended Complaint was issued days after the Plaintiff filed a Motion to Dismiss. The Amended Complaint accused her of the SAME CRIME. Which constitutes Double Jeopardy.

CLAIMS FOR MONETARY DAMAGES

UNDER FEDERAL LAW

16. CLAIM ONE....Under 1983, an unlawful seizure, a violation of the Fourth Amendment for Intentional Infliction of Emotional Distress, to an 80 year old elderly person, where the police hadNO PROBABLE CAUSE. Of "a secret and evil plan, by the defendants, to do something unlawful and harmful, to an 80 year old elderly person. (1) that the conduct was outrageous; (2) That all defendants INTENDED to harm the Plaintiff; (3) that she suffered severe and emotional damage; (4) That the conduct was a substantial factor in causing severe emotional distress; (5) that the conduct was outrageous to an 80 year old elderly person, in a civilized community;

17. CLAIM TWO.....Under Monell, under 1983, of an unlawful seizure, of false charges, with an improper purpose, by the actively involved policymaking officials police Chief Rondeau, and prosecutor Timothy Morgan, of the Wolfeboro Police Department, who were actively involved, and who were the direct cause of the seizure, who initiated the entire process, handled and supervised the case, who both initiated, managed and pursued the case, directed and participated in the entire charged process, with the Belnap Sheriff's department, who together pursued the case with maice when there was NO PROBABLE CAUSE. Where the prosecutor acted outside his authority in the pursuing a criminal case against the Plaintiff knowing that there was NO INJURY involved as required under the Statute, where even one incident constitutes liability for the Town. Under Monell, under 1983;

18. CLAIM THREE.....An unlawful Conspiracy. As cited above.

19. CLAIM FOURThe Plaintiff seeks Damages as appropriate.

The Plaintiff reserves the right to add new claims.

Respectfully,

Josephine Amatucci

February 12, 2019

c. Town of Wolfeboro, Rondeau, Prosecutor Morgan, Wright, Belnap Sheriff's Dept.

A handwritten signature in cursive script, reading "Josephine Amatura". The signature is written in black ink and is positioned below the text "c. Town of Wolfeboro, Rondeau, Prosecutor Morgan, Wright, Belnap Sheriff's Dept.".

Belknap County Sheriffs Department

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NARRATIVE FOR SERGEANT WILLIAM WRIGHT

Ref: 18-153-OF

I told him I would conduct the investigation and would be forwarding the conclusion once completed.

On September 7, 2018 I responded to the Wolfeboro Solid Waste Disposal Building, 400 Beach Pond Rd Wolfeboro, NH. At approximately 0940 hours, I met with the victim of this incident:

Robert Maloney

The building office was open and had foot traffic from the busy dump day. I was told we could use the office, but might be interrupted during the interview. I began the recorded interview asking Mr. Maloney about the incident.

He informed me on August 7, 2018 at approximately 2 p.m., he was standing in the doorway of the building office. He witnessed Josephine Amatucci speaking with Supervisor Steve Champaigne about a couple of people who were making a mess with a U-Haul truck. The people had been emptying the truck and had items spread out. Ms. Amatucci was told Mr. Champaigne had already told the people they were to clean up the mess before they left. Ms. Amatucci then walked off. As short time later, Mr. Maloney was still standing in the door way when Ms. Amatucci came to him from the flank. She then pushed him on his left side with her hands, causing him to lose his balance and fall down the two stairs into the office. She followed him into the office and began yelling at Mr. Champaigne, who was already in the room. She argued about the mess caused by the U-haul truck. After a few moments she then left. Mr. Maloney told me Ms. Amatucci did not have permission to put her hands on him. He did not have any injuries as a result of this assault. He told me she had no real reason to push him and that she could have easily walked around him. We were interrupted a couple of times during the interview, with patrons of the dump. The facility was extremely busy and there was limited staff on hand.

where he is confessing he was blocking the door to the office AND WAS REFUSING TO MOVE OVER IF he WAS AT THE DOOR, which he WAS NOT AT THE DOOR

When I asked about his relationship with Ms. Amatucci and he told me he knew her from him working at the dump for the last 20 years. He said she was a frequent customer and had no idea what her concern with the U-haul truck was. His recorded statement is part of this report.

I then spoke with:

I HAVE A RESTRAINT ORDER (ACTIVE) ON his CRAZY Mother

Joshua Nason

DoB: 12/25/93

who advised me he was a witness to the assault. Again I audio taped this interview in the same office. Mr. Nason informed me he had seen Ms. Amatucci come up to Mr. Maloney from the side. She then pushed him, causing him to fall down the stairs. She then commenced to yell at Mr. Champaigne telling him he was rude to people. She yelled for a few minutes then left. He said he left the office just after the assault. He said he did not hear of any injuries but he was aware she had no right to push him. His recorded statement is attached to this report.

I was informed Steve Champaigne was on vacation and would not be returning until the 17th. I told the employees I would be following up with him once he returned.

I went to the Wolfeboro Police Department and spoke with a Captain. He gave me an IMC printout of Ms. Amatucci's information and contacts Wolfeboro Police Department had with her over the years. I then met

DOCKET #: _____ CHARGE ID: _____

COMPLAINT (VIOLATION ONLY)

- ☐ You **DO NOT** have to come to court. You **MUST** answer this complaint to the Department of Safety within (30) days from the date of issuance. DATE OF ISSUANCE: _____
- TO AVOID ANY ADDITIONAL ADMINISTRATIVE FEES OR REINSTATEMENT FEES SEE REVERSE SIDE FOR INSTRUCTIONS AND PENALTY INFORMATION.**

**DEPARTMENT OF SAFETY
FINANCIAL RESPONSIBILITY SECTION - PBM
PO BOX 3838, CONCORD NH 03305
603-227-4010
<http://www.nh.gov/payticket>**

You must come to the court indicated listed at 8:00 o'clock AM/PM on January 9 yr 2019 to answer this complaint.

3rd Circuit District Division Ossipee
DISTRICT COURT
76 Water Village Rd #2
STREET
Ossipee NH 03864
TOWN/CITY STATE ZIP CODE

THE UNDERSIGNED COMPLAINS THAT THE DEFENDANT: (Please Print)

LAST NAME <u>AMATUCCI</u>			FIRST NAME <u>Josephine</u>			MIDDLE INITIAL		
ADDRESS <u>350 Gov Wentworth Hwy</u>			CITY <u>Wolfeboro</u>			STATE <u>NH</u>		
ZIP CODE <u>03894</u>			DOB: MO DAY YR. <u>9/27/38</u>			OP LICENSE # <u>09A1J38271</u>		
SEX <u>F</u>			RACE <u>W</u>			HEIGHT <u>508</u>		
WEIGHT <u>187</u>			COLOR EYES <u>BRO</u>			COLOR HAIR <u>BLK</u>		
LICENSE PRESENTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO								

ON THE 6th DAY OF August YR 2018 AT 2:00 AM/PM
DID OPERATE M.V. REGISTRATION # _____ PLATE TYPE _____ STATE _____
MAKE _____ YR _____ TYPE _____

☐ COMMERCIAL VEHICLE ☐ HAZMAT ☐ 16+ PASSENGER

AT/LOCATION: Wolfeboro GPS _____

- Upon a certain public highway, to wit - 400 Beach Pond Rd
- ☐ at a speed greater than was reasonable and prudent under the conditions prevailing, to wit, at a rate of _____ m.p.h., the prima facie lawful speed at the time and place of violation being _____ m.p.h.
Contrary to RSA 265:60 ☐ Radar ☐ Aircraft ☐ Clocked ☐ Laser
- ☐ traveling at a rate of _____ m.p.h., the same being in excess of the maximum lawful speed limit of 65 m.p.h.
- ☐ did fail and neglect to stop the said vehicle for a certain:
- ☐ stop sign (contrary to RSA 265:31)
- ☐ traffic light (contrary to RSA 265:9) before entering intersection of: _____

☐ did fail and neglect to have the said vehicle inspected in accordance with the regulations of the Director of Motor Vehicles. Contrary to RSA 266:5.

☐ did fail and neglect to have said vehicle registered in accordance with law. Contrary to RSA 261:40.

☒ other: Simple Assault

Contrary to RSA (631:2-A, 116) Against the peace and dignity of the State.

Department Berkshire County Sheriff's Office Complainant M. H. #3 Badge Number

☒ SERVED IN HAND

FINE FROM SCHEDULE S Must Appear

YOU MUST COMPLETE THE REVERSE SIDE OF THIS FORM
SEE REVERSE FOR INSTRUCTION AND PENALTY INFORMATION

DS No 937580

DSMV 428 (REV. 02/11)

DEFENDANT